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★ DEC 30 2009 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**CV 09 - 5711**

-----X  
BOGDAN TESOVIC, DEJAN PAPRIC and  
MARKO MILICEVIC,

**MAUSKOPF, J.**

Plaintiffs,

-against-

COMPLAINT  
and JURY DEMAND

**CARTER, M.J.**

THE CITY OF NEW YORK, DETECTIVE ROBERT  
ANDERSON and POLICE OFFICERS JOHN DOE  
1-10, inclusive

Defendants.

Case No.:

-----X  
Plaintiffs, by their attorney, THOMAS E. GORMAN, complaining of the  
Defendants, respectfully alleges, upon information and belief as follows:

### **JURISDICTION AND VENUE**

1. This action arises under the Constitution of the United States, particularly the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States, and under the laws of The United States, particularly the Civil Rights Act, Title 42 USC, §1983 and §1988 and the common laws of the State of New York.

2. The jurisdiction of this Court is invoked under the provisions of title 28 USC § 1331 and §1343.

3. Venue is placed in this district because it is the district in which the events complained of occurred.

### **PARTIES**

4. Plaintiff BOGDAN TESOVIĆ at all times herein after mentioned is a citizen of the United States, resident of the County of Queens, State of New York.

5. Plaintiff DEJAN PAPRIĆ at all times herein after mentioned is a citizen of the United States, resident of the County of Queens, State of New York.

6. Plaintiff MARKO MILICEVIĆ at all times herein after mentioned is a citizen of the United States, resident of the County of Queens, State of New York.

7. Defendant THE CITY OF NEW YORK is a municipal corporation duly incorporated under the laws of the State of New York.

8. That at all times herein after mentioned the Defendant THE CITY OF NEW YORK maintained a police department.

9. That Defendant DETECTIVE ROBERT ANDERSON was a police officer duly appointed and acting as an officer of the aforementioned police department.

10. That Defendants POLICE OFFICERS JOHN DOE1-10, inclusive were police officers duly appointed and acting as an officer of the aforementioned police department but whose names are currently unknown to plaintiffs. Plaintiffs will amend this complaint to reflect the proper names of these defendants once same become known.

### **FACTS COMMON TO ALL CAUSES OF ACTION**

11. Upon information and belief, on or about November 25, 2008, at about 5:30 PM, inside of 883 Wyckoff Ave., County of Queens, State of New York, the Plaintiffs were arrested for and charged with allegedly having committed the violations of:

PL 220.16-1 Criminal possession of a controlled substance in the third degree

PL 220.03 Criminal possession of a controlled substance in the seventh degree.

12. The one of the arresting officers are believed to be DETECTIVE ROBERT ANDERSON Tax ID#: 926505 and POLICE OFFICERS JOHN DOE1-10, inclusive. The plaintiffs informed the officers they were not involved with the drugs and were bystanders to the incident who were in the building to fix the boiler.

13. The officers did not attempt to verify the Plaintiffs' story. Plaintiffs were falsely accused, and wrongly taken into custody, arrested, photographed, processed, questioned, arraigned, searched, imprisoned and confined by the Defendants and other unknown agents as a result of the unsupported and outrageous claims set forth above.

14. Thereafter the Plaintiffs were processed through the criminal justice system and subjected by defendants and others to finger printing, photographing and placed in a cell.

15. That Plaintiffs were later transferred to a cell in central booking and held for an 24 hours. Their total time of incarceration was 28 hours.

16. That Plaintiffs were aware of their confinement and at no time did they consent to same.

17. That on or about November 27, 2008 Plaintiffs were released from custody.

18. On or about January 14, 2009, when the criminal charges against Plaintiffs, were dismissed, by Judge S. Melendez in Part N of the Criminal Court Queens County.

19. That on or about April 2, 2009, Notices of Claim against The City of New York were filed on behalf of the plaintiffs.

20. That Defendants THE CITY OF NEW requested a hearing of Plaintiffs pursuant to G.M.L. §50-h and said hearings were held on June 4, 11 and 13, 2009.

31. That more than 30 days have elapsed since service of the Notices of Claim and

Defendant CITY OF NEW YORK has refused to settle or adjust this matter.

32. This action instituted within a year and ninety days from the date of the incident upon which the claim is based.

33. Plaintiffs did not commit the crimes alleged in the Complaint or at any relevant time commit any offense against the laws, ordinances or Statutes of the City or State of New York and Defendants did not have any reasonable grounds for believing that Plaintiffs were committing or had committed any offense.

**AS AND FOR A FIRST CAUSE OF ACTION**

34. Plaintiff BOGDAN TESOVIĆ repeats, reiterates and realleges each and every allegation set forth above in paragraphs, as though set forth herein at length.

35. That Defendants under color of law and by virtue of their official position as detectives and/or police officers maliciously, unlawfully and without reasonable or probable cause and without warrant or any process of any Court arrested Plaintiff S BOGAN TESOVIĆ and incarcerated him.

36. By reason of the foregoing, Plaintiff BOGAN TESOVIĆ was deprived of his right to be free, without due process of law, his right not to be deprived of life and liberty and to be free of unreasonable seizure, all of which are violations of his rights under the laws of the Constitution of The United States, in particular the Fourth, Fifth and Fourteenth Amendments thereof.

37. As a result of their actions Defendants violated Plaintiff BOGDAN TESOVIĆ's Civil Rights pursuant to §42 USC, 1983.

38. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A SECOND CAUSE OF ACTION**

39. Plaintiff BOGDAN TESOVIĆ repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

40. That at all times herein after mention Defendant THE CITY OF NEW YORK was negligent in training and supervision of its police officers in the fundamental law of arrest.

41. As a direct and proximate cause of aforesaid omissions, the Plaintiff BOGDAN TESOVIĆ was improperly arrested and falsely imprisoned.

42. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A THIRD CAUSE OF ACTION**

43. Plaintiff BOGDAN TESOVIĆ repeats, reiterates and realleges each and every allegation set forth in paragraphs contained herein, as though set forth herein at length.

44. Defendant CITY OF NEW YORK was negligent, careless and reckless in retaining said police officers, knowing they committed prior actions which were outside of police procedure and policies, thereafter receiving complaints about individual police officers regarding their conduct on the job prior to the within arrest and incarceration of the Plaintiff BOGDAN TESOVIĆ

45. As a result of the foregoing Plaintiff BOGDAN TESOVIĆ was caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A FOURTH CAUSE OF ACTION**

46. Plaintiff BOGAN TESOVIĆ repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

47. That the individual Defendants falsely arrested and imprisoned Plaintiff BOGDAN TESOVIĆ.

48. As a result of the foregoing Plaintiff was damaged in the sum of \$250,000.00.

**AS AND FOR A FIFTH CAUSE OF ACTION**

49. Plaintiff BOGDAN TESOVIĆ repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

50. On, November 25, 2008, while defendant the Police Officers had plaintiff in custody, they claimed that they had reasonable grounds to believe that plaintiff had committed a crimes of PL 220.16-1 Criminal possession of a controlled substance in the third degree and PL 220.03 Criminal possession of a controlled substance in the seventh degree, and filed a complaint against plaintiff charging plaintiff with those offenses. Plaintiff was htereafter prosecuted for those offenses. On or about January 14, 2009, when the criminal charges against Plaintiff, were dismissed, by Judge S. Melendez in Part N of the Criminal Court Queens County.

51. The above described prosecution by defendant Police Officers was malicious and without reasonable or probable cause, and was instituted by defendants to attempt to cover up and justify defendants' offensive and malicious acts and conduct in arresting, harassing, annoying and oppressing plaintiff.

52. As a result of the foregoing Plaintiff BOGDAN TESOVIĆ was damaged in the sum of \$250,000.00.

**AS AND FOR A SIXTH CAUSE OF ACTION**

53. Plaintiff DEJAN PAPRIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs, as though set forth herein at length.

54. That Defendants under color of law and by virtue of their official position as

detectives and/or police officers maliciously, unlawfully and without reasonable or probable cause and without warrant or any process of any Court arrested Plaintiff DEJAN PAPRIC and incarcerated him.

55. By reason of the foregoing, Plaintiff DEJAN PAPRIC was deprived of his right to be free, without due process of law, his right not to be deprived of life and liberty and to be free of unreasonable seizure, all of which are violations of his rights under the laws of the Constitution of The United States, in particular the Fourth, Fifth and Fourteenth Amendments thereof.

56. As a result of their actions Defendants violated Plaintiff DEJAN PAPRIC's civil Rights pursuant to §42 USC, 1983.

57. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

#### **AS AND FOR A SEVENTH CAUSE OF ACTION**

58. Plaintiff DEJAN PAPRIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

59. That at all times herein after mention Defendant THE CITY OF NEW YORK was negligent in training and supervision of its police officers in the fundamental law of arrest.

60. As a direct and proximate cause of aforesaid omissions, the Plaintiff DEJAN PAPRIC was improperly arrested and falsely imprisoned.

61. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

#### **AS AND FOR A EIGHTH CAUSE OF ACTION**

62. Plaintiff DEJAN PAPRIC repeats, reiterates and realleges each and every

Plaintiff, were dismissed, by Judge S. Melendez in Part N of the Criminal Court Queens County.

70. The above described prosecution by defendant Police Officers was malicious and without reasonable or probable cause, and was instituted by defendants to attempt to cover up and justify defendants' offensive and malicious acts and conduct in arresting, harassing, annoying and oppressing plaintiff.

71. As a result of the foregoing Plaintiff DEJAN PAPRIC was damaged in the sum of \$250,000.00.

**AS AND FOR A ELEVENTH CAUSE OF ACTION**

72. Plaintiff MARKO MILICEVIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs, as though set forth herein at length.

73. That Defendants under color of law and by virtue of their official position as detectives and/or police officers maliciously, unlawfully and without reasonable or probable cause and without warrant or any process of any Court arrested Plaintiff MARKO MILICEVIC and incarcerated him.

74. By reason of the foregoing, Plaintiff MARKO MILICEVIC was deprived of his right to be free, without due process of law, his right not to be deprived of life and liberty and to be free of unreasonable seizure, all of which are violations of his rights under the laws of the Constitution of The United States, in particular the Fourth, Fifth and Fourteenth Amendments thereof.

75. As a result of their actions Defendants violated Plaintiff MARKO MILICEVIC 's civil Rights pursuant to §42 USC, 1983.

76. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

allegation set forth in paragraphs contained herein, as though set forth herein at length.

63. Defendant CITY OF NEW YORK was negligent, careless and reckless in retaining said police officers, knowing they committed prior actions which were outside of police procedure and policies, thereafter receiving complaints about individual police officers regarding their conduct on the job prior to the within arrest and incarceration of the Plaintiff DEJAN PAPRIC

64 As a result of the foregoing Plaintiff DEJAN PAPRIC was caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A NINTH CAUSE OF ACTION**

65. Plaintiff DEJAN PAPRIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

66. That the individual Defendants falsely arrested and imprisoned Plaintiff DEJAN PAPRIC.

67. As a result of the foregoing Plaintiff was damaged in the sum of \$250,000.00.

**AS AND FOR A TENTH CAUSE OF ACTION**

68. Plaintiff DEJAN PAPRIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

69. On, November 25, 2008, while defendant the Police Officers had plaintiff in custody, they claimed that they had reasonable grounds to believe that plaintiff had committed a crimes of PL 220.16-1 Criminal possession of a controlled substance in the third degree and PL 220.03 Criminal possession of a controlled substance in the seventh degree, and filed a complaint against plaintiff charging plaintiff with those offenses. Plaintiff was htereafter prosecuted for those offenses. On or about January 14, 2009, when the criminal charges against

**AS AND FOR A TWELFTH CAUSE OF ACTION**

77. Plaintiff MARKO MILICEVIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

78. That at all times herein after mention Defendant THE CITY OF NEW YORK was negligent in training and supervision of its police officers in the fundamental law of arrest.

79. As a direct and proximate cause of aforesaid omissions, the Plaintiff MARKO MILICEVIC was improperly arrested and falsely imprisoned.

80. As a result of the foregoing Plaintiff has been caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A THIRTEENTH CAUSE OF ACTION**

81. Plaintiff MARKO MILICEVIC repeats, reiterates and realleges each and every allegation set forth in paragraphs contained herein, as though set forth herein at length.

82. Defendant CITY OF NEW YORK was negligent, careless and reckless in retaining said police officers, knowing they committed prior actions which were outside of police procedure and policies, thereafter receiving complaints about individual police officers regarding their conduct on the job prior to the within arrest and incarceration of the Plaintiff MARKO MILICEVIC

83. As a result of the foregoing Plaintiff MARKO MILICEVIC was caused to sustain damages in the sum of \$250,000.00.

**AS AND FOR A FOURTEENTH CAUSE OF ACTION**

84. Plaintiff MARKO MILICEVIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

85. That the individual Defendants falsely arrested and imprisoned Plaintiff MARKO

MILICEVIC.

86. As a result of the foregoing Plaintiff was damaged in the sum of \$250,000.00.

**AS AND FOR A FIFTEENTH CAUSE OF ACTION**

87. Plaintiff MARKO MILICEVIC repeats, reiterates and realleges each and every allegation set forth above in paragraphs contained herein, as though set forth herein at length.

88. On, November 25, 2008, while defendant the Police Officers had plaintiff in custody, they claimed that they had reasonable grounds to believe that plaintiff had committed a crimes of PL 220.16-1 Criminal possession of a controlled substance in the third degree and PL 220.03 Criminal possession of a controlled substance in the seventh degree, and filed a complaint against plaintiff charging plaintiff with those offenses. Plaintiff was htereafter prosecuted for those offenses. On or about January 14, 2009, when the criminal charges against Plaintiff, were dismissed, by Judge S. Melendez in Part N of the Criminal Court Queens County.

89. The above described prosecution by defendant Police Officers was malicious and without reasonable or probable cause, and was instituted by defendants to attempt to cover up and justify defendants' offensive and malicious acts and conduct in arresting, harassing, annoying and oppressing plaintiff.

90. As a result of the foregoing Plaintiff MARKO MILICEVIC was damaged in the sum of \$250,000.00.

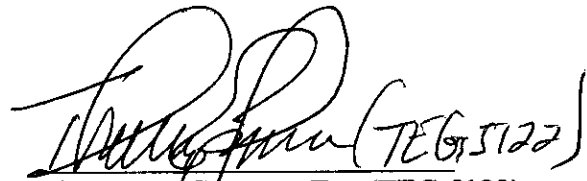
**WHEREFORE** Plaintiffs requests judgment against the Defendants and each of them as follows:

1. On plaintiff's First Cause of Action a sum of \$250,000.00.
2. On plaintiff's Second Cause of Action a sum of \$250,000.00.
3. On plaintiff's Third Cause of Action a sum of \$250,000.00.

4. On plaintiff's Fourth Cause of Action a sum of \$250,000.00.
5. On plaintiff's Fifth Cause of Action a sum of \$250,000.00.
6. On plaintiff's Sixth Cause of Action a sum of \$250,000.00.
7. On plaintiff's Seventh Cause of Action a sum of \$250,000.00.
8. On plaintiff's Eighth Cause of Action a sum of \$250,000.00.
9. On plaintiff's Ninth Cause of Action a sum of \$250,000.00.
10. On plaintiff's Tenth Cause of Action a sum of \$250,000.00.
11. On plaintiff's Eleventh Cause of Action a sum of \$250,000.00.
12. On plaintiff's Twelfth Cause of Action a sum of \$250,000.00.
13. On plaintiff's Thirteenth Cause of Action a sum of \$250,000.00.
14. On plaintiff's Fourteenth Cause of Action a sum of \$250,000.00.
15. On plaintiff's Fifteenth Cause of Action a sum of \$250,000.00.

and attorneys fees pursuant to §42 USC 1988 and for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
December 30, 2009

  
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